

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 93-475-C - ORDER NO. 94-36 *✓c*
JANUARY 12, 1994

IN RE: Application of National Communications Association, Inc. for a Certificate of Public Convenience and Necessity to Provide Resold Telecommunications Services Within the State of South Carolina.) ORDER APPROVING CERTIFICATE)

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of the Application of National Communications Association, Inc. (NCA or the Company) requesting a Certificate of Public Convenience and Necessity authorizing it to provide resold telecommunications services in the State of South Carolina. NCA's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1993) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed NCA to publish a prepared Notice of Filing, one time, in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of NCA's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. NCA complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was filed by

Southern Bell Telephone and Telegraph Company (Southern Bell). Southern Bell subsequently filed a Motion to Withdraw from this proceeding, and Southern Bell was allowed to withdraw its intervention in Order No. 93-925, dated October 6, 1993. In addition, the Consumer Advocate for the State of South Carolina (the Consumer Advocate) intervened in the proceeding. After review of NCA's Application, the Consumer Advocate informed the Commission it would not participate in the hearing. The Commission grants the Consumer Advocate's request to withdraw.

George Schoenberg, President of the Company, submitted verified testimony, verified responses to Staff Data Request 1, and an affidavit on behalf of the Company. Mr. Schoenberg explained the Company's request for authority to provide direct dial long distance service using the resold transmission services of certificated carriers in South Carolina. He stated that the Company planned to utilize the long distance facilities of AT&T, TRT Communications, Sprint, and Metromedia.¹ Mr. Schoenberg stated that the Company plans to offer its services to small to medium-sized business and some residential customers throughout the state. Mr. Schoenberg also explained the Company's financial resources and stated that he believes the Company has sufficient resources to provide its services in South Carolina. Mr. Schoenberg testified that the Company does not provide 900-type information services and that it has not provided any intrastate

1. TRT Communications is not authorized to provide telecommunications services in South Carolina.

services in South Carolina.

Mr. Schoenberg further submitted that the Company will provide an opportunity for small- and medium-sized businesses and residential customers to avail themselves of advanced features, functionality and substantial rate discounts. Mr. Schoenberg submits that the increased level of competition in the market will increase the availability, reliability, diversity, and efficiency of telecommunications services throughout South Carolina. Additionally, Mr. Schoenberg states that by stimulating demand in the telecommunications market, NCA's proposed service will generate additional tax revenue for the State of South Carolina.

After full consideration of the applicable law, the Application, testimony, responses to Staff Data Request 1, and affidavit presented by the Company, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. NCA is incorporated under the laws of the State of New York, and is licensed to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. NCA operates as a non-facilities based reseller of interexchange services and wishes to do so in South Carolina.

3. NCA has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to NCA to provide intrastate service through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Services (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for NCA for its resale services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984). The Commission adopts NCA's proposed maximum rate tariffs.

3. NCA shall not adjust its rates below the approved maximum level without notice to the Commission and to the public. NCA shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket

No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of NCA's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1993).

4. NCA shall file its tariff and an accompanying price list within thirty (30) days of the date of this Order. Further, the tariff shall be filed with the Commission in a loose-leaf binder.

5. NCA is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

6. With regard to NCA's resale of service, an end user should be able to access another interexchange carrier or operator service provider if they so desire.

7. NCA shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission.² If NCA changes underlying carriers, it shall notify the Commission in writing.

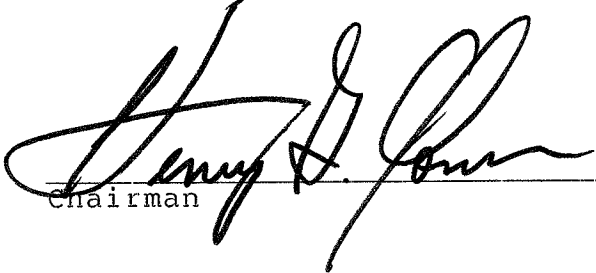
8. NCA shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993).

2. As noted earlier in this Order, TRT Communications has not been authorized by this Commission to do business in South Carolina.

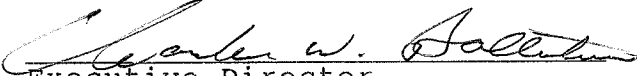
9. NCA shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

10. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

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ATTACHMENT A

ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS
FOR RESELLERS OF TELECOMMUNICATION SERVICE

(1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR 12 MONTHS
ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.

*THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION WORK IN
PROGRESS, ACCUMULATED DEFERRED INCOME TAX, CONTRIBUTIONS IN AID OF
CONSTRUCTION AND CUSTOMER DEPOSITS.

(4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR ENDING
_____.

*THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION
PAYABLE), PREFERRED STOCK AND COMMON EQUITY.

(5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE
AMOUNT OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS WELL
AS METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT (SEE #3
ABOVE).